

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

2002 JAN 28 PM 12: 06

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:	}	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, LLC	}	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel Storage Installation)	}	November 15, 2001

STATE OF UTAH'S UNOPPOSED MOTION TO DEFER DEPOSITION OF
STAFF WITNESS PANEL ON CONTENTION UTAH L, PART B

In the PFS proceedings General Schedule, as revised September 20, 2001, the discovery period for Utah L, Part B (all parties) is from September 17 until November 16, 2001. On October 31 and November 1, 2001, the State took the deposition of PFS witness, Dr. Allin Cornell. The State is taking the depositions of the remaining PFS's named witnesses on November 15th and 16th, *i.e.*, within the discovery period. PFS has completed its depositions of the State's named witnesses. On November 9, PFS filed a Motion for Summary Disposition of Utah L, Part B; responses are due November 29th.

The State and the Staff have been unable to reach a mutually satisfactory schedule for the Staff witness depositions. The Staff recently named three witnesses, Drs. John Stamatakos, Rui Chen and M. McCann who will testify as a witness panel for Utah L, Part B. Due to Staff witness scheduling constraints, the Licensing Board November 7, 2001 granted the State's request for an extension of time to allow it to take the Staff's depositions by November 21, 2001. However, other time constraints (including depositions of PFS witnesses and the need to respond to PFS's motion for summary disposition of Contention

Utah L Part B), require that these depositions be postponed until a later date. The State is willing to forego the deposition of the Staff witness panel such that it would not use Staff deposition testimony in responding the PFS's Motion for Summary Disposition and requests that the Board permit the State to depose the Staff witness panel for Utah L, Part B during the period January 2, 2002 to February 1, 2002. This is the period in the schedule set aside for the discovery against the Staff for new issues relating to Utah L. Therefore, deferring depositions of the Staff until January 2002 and combining depositions on Utah L, Part B with new issues on Utah L will have no delaying effect on the schedule.

The State reluctantly agreed to the discovery period from September 17 until November 16, 2001 to accommodate a schedule that would allow the seismic exemption issue to go to hearing with the NEPA and other contentions scheduled for April 2002. In agreeing to the schedule, the State made the concession to continue with discovery during the first week of the State's time to respond to PFS's Motion for Summary Disposition. Because of the difficulty in arriving at a satisfactory schedule to depose staff witnesses during the discovery period, the only time available to depose those witnesses would be after the discovery period during the week of Thanksgiving. This time period cuts deeply into the State's time to respond to PFS's Motion for Summary Disposition.¹ Moreover, the State did not have relevant background information on two of the Staff witnesses until November 9th and is awaiting information on the third witness. It is the State's understanding that the Staff

¹ Taking depositions in Washington, D.C. on November 19th and 20th (and possibly November 21st) would essentially require State counsel to be out of the office for the entire week.

will shortly supplement discovery in which it will formally name witnesses and provide other relevant information.

The difficulty in arranging a mutually acceptable Staff deposition schedule has resulted in this motion to defer the deposition of Staff witnesses Stamatakos, Chen and McCann. The State therefore, has good cause for requesting that it be given the opportunity to depose witnesses Stamatakos, Chen and McCann on all issues relating to Utah L, Part B during the time period January 2 to February 1, 2002 and requests that the Board grant its motion.

Counsel for the State has contacted counsel for the Staff and PFS, neither of whom opposes this motion.

DATED this 15th day of November, 2001.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy STATE OF UTAH'S UNOPPOSED MOTION TO DEFER DEPOSITION OF STAFF WITNESS PANEL ON CONTENTION UTAH L, PART B was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 15th day of November, 2001:

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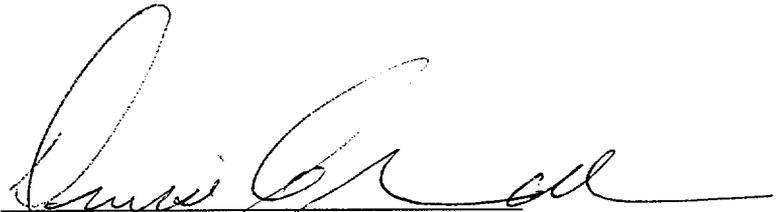
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A handwritten signature in black ink, appearing to read "Denise Chancellor", written over a horizontal line.

Denise Chancellor
Assistant Attorney General
State of Utah